

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

UNITED STATES OF AMERICA,	:	March 28, 2017
	:	
Plaintiff,	:	
vs.	:	Lafayette, Louisiana
	:	
JASON COMEAUX	:	Docket Nos. 16-00045
ROBERT BURNS	:	16-00033
BYRON BENJAMIN LASSALLE	:	16-00035
BRET BROUSSARD	:	16-00036
WADE BERGERON,	:	16-00032
Defendants.	:	

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REPORTER'S OFFICIAL TRANSCRIPT OF THE STATEMENT OF  
ANTHONY DAYE HAD DURING THE SENTENCING HEARING  
BEFORE THE HONORABLE DONALD E. WALTER  
UNITED STATES DISTRICT JUDGE

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P R O C E E D I N G S

THE COURT: All right. I have a series of  
New Iberia cases. Mr. Bergeron, Mr. Burns, Mr. Lassalle,  
Mr. Broussard, Mr. Hines, Mr. Comeaux, and Mr. Hatley.

Is that right from the government?

MR. BLUMBERG: Yes, Your Honor.

THE COURT: All right. Mr. Talbot, are you here today?

MR. TALBOT: Yes, Your Honor.

THE COURT: Mr. Block, are you here today?

MR. BLOCK: Yes, sir.

THE COURT: Good.

Mr. Robideaux, are you here?

MR. ROBIDEAUX: Yes, Your Honor.

THE COURT: And Mr. Grayson?

MR. GRAYSON: Yes, sir.

THE COURT: And Mr. Ewing? Mr. Ewing?

Mr. Ewing represents Mr. Hines.

How about Mr. Billeaud? Is he here?

He represents Mr. Comeaux.

And I'm sorry. Who represents Mr. Hatley?

MR. WASHINGTON: Your Honor, I do, Don Washington.

THE COURT: Oh, that's right, Mr. Washington.

So we don't have two defense lawyers, Ewing and  
Billeaud, here.

MR. BLUMBERG: Correct.

1 THE COURT: Okay. I await the government's desires or  
2 what they want to do next.

3 MR. BLUMBERG: Yes, Your Honor.

4 Unexpectedly, Mr. Anthony Daye is actually physically  
5 present in court, and his victim/witness testimony would not be  
6 related either to Mr. Hines or -- no, it would be related to  
7 Mr. Comeaux, wouldn't it?

8 THE COURT: Not related to Mr. Hines or Mr. Comeaux?

9 MR. BLUMBERG: No. It would be related to Mr. Comeaux,  
10 Your Honor.

11 I would ask the Court the indulgence to call counsel  
12 and see if they are en route so that we could have Mr. Daye  
13 testify and have him done and returned to the custody of the  
14 marshals.

15 THE COURT: For the benefit of the audience and  
16 probably for all the lawyers here, the writs of habeas corpus ad  
17 testificandum, despite valiant efforts by the U.S. Marshal  
18 Service, have been not served or served at the wrong place.

19 The government, following the law, says that victims  
20 can testify if they want to.

21 I'm going to give you -- I'm going to give you 15  
22 minutes to figure out where you are, and then I'm going to either  
23 find that you've done your best and that's it or we'll listen.

24 Okay?

25 MR. BLUMBERG: Yes, sir.

1 THE COURT: Fifteen minutes.

2 (Recess)

3 THE COURT: All right. You may be seated.

4 Okay. Mr. Blumberg, what's the government's pleasure?

5 MR. BLUMBERG: The first play would be to perhaps to  
6 have the other sentencing go first, which is ready to go before  
7 us, if the Court is willing to do that.

8 THE COURT: Have you had a chance now to go over the --

9 MR. AMBEAU: I have, Your Honor.

10 THE COURT: All right. Where is he?

11 Let's go ahead and do it.

12 MR. BLUMBERG: Thank you, sir.

13 - - -

14 THE COURT: All right. Mr. Blumberg, what is the  
15 government proposing?

16 MR. BLUMBERG: We propose we begin with the  
17 victim/witness testimony of Anthony Daye who is present and in  
18 custody outside the courtroom. The relevant attorneys for the  
19 cases that are relevant to Mr. Daye's victimization are here.  
20 One defendant is on his way, but has not made it into the  
21 courtroom, but I've spoken with counsel who recognizes that  
22 you've heard Mr. Daye's testimony at the trial of Louis Ackal and  
23 he waives his client's presence for purposes of hearing only the  
24 testimony of Anthony Daye.

25 So I believe we can begin with him. He can then be

1 moved back to where he's in custody.

2 THE COURT: So as I understand it, you're going to put  
3 him on, he's going to tell me what I already know, and then the  
4 lawyers of the defendants involved will have a chance to ask any  
5 questions that they may have, and then we'll quit that and then  
6 we'll go to the sentencing. Is that what I understand?

7 MR. BLUMBERG: That's my understanding and that's my  
8 intention as well, Your Honor, although in terms of what he  
9 communicates, I presume it will not be a duplication of his trial  
10 testimony, but to talk about the impact of --

11 THE COURT: Can you bring Mr. Daye in?

12 MR. BLUMBERG: For the record, Your Honor, the cases in  
13 which Mr. Daye's testimony is relevant involve *U.S. vs.*  
14 *Jason Comeaux, U.S. vs. Robert Burns* --

15 THE COURT: Just one second.

16 MR. BLUMBERG: Yes, sir.

17 (Pause in Proceedings)

18 THE COURT: Yes. Go ahead.

19 MR. BLUMBERG: *U.S. vs. Benjamin Lassalle, U.S. vs.*  
20 *Bret Broussard, and U.S. vs. Wade Bergeron.*

21 So his testimony is relevant --

22 THE COURT: This will involve what took place in the  
23 chapel?

24 MR. BLUMBERG: Yes, sir.

25 THE COURT: All right.

1 MR. BLUMBERG: Ms. Boyd corrects me, Your Honor, that  
2 this is a victim impact statement and he is not subject under the  
3 statute, as far as I understand it, to cross-examination by  
4 defense counsel. It is his opportunity to merely tell you about  
5 his experience.

6 THE COURT: All right. I'm going to at least ask them  
7 if they have any objection after we hear what he says.

8 Proceed, sir. Just come up and raise your right hand  
9 and be sworn.

10 THE COURTROOM DEPUTY: Please raise your right hand.

11 Do you solemnly swear that the testimony you will give  
12 in this case will be the truth, the whole truth, and nothing but  
13 the truth, so help you God?

14 THE WITNESS: Yes, ma'am.

15 THE COURTROOM DEPUTY: Thank you.

16 THE COURT: All right. Proceed.  
17 Whereupon,

18 ANTHONY DAYE  
19 was called; after having been first duly sworn, was examined as  
20 follows:

21 EXAMINATION

22 BY MR. BLUMBERG:

23 Q Good morning, Mr. Daye.

24 A Good morning.

25 Q Mr. Daye, do you understand why you're here today?



1 A Yes, sir.

2 Q This is your opportunity to tell the Court anything you  
3 would like regarding what happened to you at the Iberia Parish  
4 Jail.

5 Now, you've testified about that matter in open court,  
6 haven't you?

7 A Yes, sir.

8 Q And so you understand this is the same judge who heard your  
9 testimony in court in the trial of Louis Ackal? You understand  
10 that?

11 A Yes, sir.

12 Q Keeping that in mind, that he has heard a narrative of how  
13 you describe the events, this is your opportunity to talk about  
14 the impact on you and anything else you'd like to offer to the  
15 Court.

16 A Yes, sir.

17 Q You may testify.

18 A Just the impact, just mentally, physically. I've just been  
19 mentally scarred, I guess.

20 MR. BLUMBERG: If I may approach the lectern,  
21 Your Honor.

22 THE COURT: You may get closer to that microphone,  
23 please.

24 BY MR. BLUMBERG:

25 Q Mr. Daye, this is your opportunity to explain what you mean

1 by the impact mentally, physically, and any other lasting effect  
2 it has had on you.

3 A I don't really have nothing to say. That's about it, about  
4 being scarred by it. That's it.

5 Q Now, you indicated that you had wished to come and talk to  
6 the Court when you were notified of your rights under this  
7 statute. Was there something in particular that you wanted to  
8 make sure the Court heard and knew before he sentences the people  
9 who are responsible or involved in the episodes at the jail?

10 A No, sir, not offhand.

11 Q Okay. Would you like the Court to consider your trial  
12 testimony to be the substance of what you want to communicate?

13 A Yes, sir.

14 Q This is your last chance. If there's anything else you  
15 would like to say to the Court, you may.

16 A No, sir. That will be fine.

17 MR. BLUMBERG: Okay. Thank you, Mr. Daye.

18 THE COURT: Mr. Talbot, any objection to what you've  
19 heard?

20 MR. TALBOT: No objection, Your Honor.

21 THE COURT: Mr. Block?

22 MR. BLOCK: No objection, Your Honor.

23 THE COURT: Mr. Robideaux?

24 MR. ROBIDEAUX: No objection, Your Honor.

25 THE COURT: Mr. Grayson?

1 MR. GRAYSON: No, sir.

2 THE COURT: Mr. Billeaud?

3 MR. BILLEAUD: No, sir.

4 THE COURT: You may step down.

5 Thank you.

6 MR. BLUMBERG: The next matter -- housekeeping matter I  
7 would like to take up, Your Honor, is related to the potential  
8 testimony of Scott Spears. Recognize also that Mr. Spears is a  
9 fellow we identified and probation has identified as a potential  
10 victim who has rights under the Victim and Witness Act. I wanted  
11 to put on the record the fact that Mr. Spears is not here, but  
12 that substantial efforts were made by court staff, the Marshal  
13 Service, the U.S. Attorney's Office, and the FBI in order to have  
14 him present.

15 I also would like to put on the record that the Court  
16 is aware of Mr. Spears' narrative of what occurred to him in the  
17 chapel surrounding the events related to the trial of  
18 Louis Ackal, that the FBI had interviewed Mr. Spears and created  
19 an FD-302, a memorandum of the interview, and that that has been  
20 provided to the Court so that you would know what his testimony  
21 would have been related to the specific events.

22 THE COURT: Actually, I don't have the 302.

23 MR. BLUMBERG: My apologies. I thought that you did  
24 have the 302.

25 THE COURT: I did ask for it.

1 MR. BLUMBERG: You did, and I promised it, and I  
2 thought it had been delivered.

3 May I have a moment, Your Honor?

4 THE COURT: Yes.

5 (Pause in Proceedings)

6 MR. BLUMBERG: Apparently it is having trouble being  
7 communicated by e-mail.

8 One more moment if I may, Your Honor.

9 THE CLERK: I just got it. I'll print it.

10 MR. BLUMBERG: If I may, Your Honor, while we're  
11 waiting -- and I apologize for that failure to get it  
12 communicated directly to your court clerk.

13 You did hear several witnesses testify regarding the  
14 events involving Mr. Spears, including some of the defendants  
15 here today who acknowledged their own behavior and, in the  
16 government's estimation, were quite candid about the description  
17 of events and the impact they may have had on Mr. Spears. So I  
18 would like the Court to take that into account as well.

19 The events that are related to circumstances --

20 THE COURT: Okay. Stop.

21 (Pause in Proceedings)

22 THE COURT: All right. I've read the 302, and I  
23 suppose I should find that the government has made diligent  
24 efforts to get Mr. Spears here, and for a variety of reasons,  
25 that didn't get accomplished, but it was certainly through no

1 lack of trying by the U.S. Marshal Service.

2 MR. BLUMBERG: No, sir. And writs were issued. There  
3 were some postponements of certain sentences. I think  
4 communications were not as clear as we would have liked, but even  
5 as late as last night, the FBI has been working hard trying to  
6 get Mr. Spears here. We were in chambers discussing it today.  
7 Mr. Spears was informed of his rights in January, I believe, and  
8 we took steps at that time, but administratively it just fell  
9 through the cracks.

10 THE COURT: Okay. The first matter, then, I'm going to  
11 take up is *United States vs. Wade Bergeron*, Number 6:16-32.

12 MR. BLUMBERG: Your Honor, one more administrative  
13 matter that may apply across the defendants that might be easier  
14 to do right now.

15 THE COURT: What's that?

16 MR. BLUMBERG: The issue as it relates to restitution.  
17 There have been some claims by some of the victims, and probation  
18 has received claims for restitution from at least, I believe,  
19 four different potential victims, Ray Trosclair, Scott Spears,  
20 Anthony Daye, and Curtis Ozenne.

21 THE COURT: And there's no way that I can come up with  
22 a sum based on their request for restitution. So as far as any  
23 restitution, I'm going to leave that to a subsequent or an  
24 existing lawsuit.

25 MR. BLUMBERG: And my comments only were that we

1 received no documentation from the victims despite requests by  
2 probation to substantiate specific losses. So the government is  
3 not in a position at this point to ask the Court to order any  
4 restitution.

5 (Whereupon, the Court continued to proceed with sentencings  
6 individually which are filed under separate cover.)

7 - - -  
8  
9  
10

11 Certificate

12 I hereby certify this 12<sup>th</sup> day of April, 2017, that the foregoing  
13 is, to the best of my ability and understanding, a true and  
14 correct transcript from the record of proceedings in the  
15 above-entitled matter.

16  
17 /s/ LaRae E. Bourque

18 Federal Official Court Reporter  
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